TK: LEADER OF THE HOUSE

(SHRI M. S. GURUPADASWAMY): Sir, after the short adjournment we are meeting again to take up the Code of Criminal procedure (Amendment) Bill which has got to be considered and passed and we have got a very short time at our disposal. Therefore, I would request the Chair to take up this matter.

SHRI SUBRAMANIAN SWAMY (Uttar Pradesh); Now, may I know if the Government has not resigned? *{Interruptions).* Will the Leader of the House give an assurance that the Government has not resigned?

———

STATUTORY RESOLUTION DISAPPROVING THE CODE OF CRIMINAL PROCEDURE AMENDMENT ORDINANCE, 1990
AND
CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 1990—Contd.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Yes, Mr. Dipenl Ghosh.

SHRI DIPEN GHOSH (West Bengal): There is not much time left because at 7. 30 there is a cultural programme followed by dinner.

I support the Bill but I am not giving any speech.

THE VICE-CHAIRMAN (SHRI JAGDESH DESAI): Yes, Shri Madam Bhatia.

SHRI MADAN BHATIA (Nominated): I was told not to speak.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): So, you don't want t© speak.

Yes, Mr, Swamy, you can now Teply.

Mr. Subramanian Swamy to reply to the discussion on his Resolution.

'

SHRl SUBRAMANIAN SWAMY: Mr. Vice-Chairman, Sir,....

AN HON. MEMBER: Speak on the Bill.

SHRI SUBRAMANIAN SWAMY; Which Bills? *(Interruptions)* Sir, I have already made my point clear as to how the courts were being subverted and bypassed by the provisions of the Bill. The Home Minister has only repeated here the speech which he made in the Lok Sabha. Therefore, *it* is quite clear that either the Home Minister is to be educated ihrough some amendments, or. he needs to be given another adjournment to reconsider this Bill. I now request that my Resolution may be put to vote.

THE VICE-CHAIRMAN: The hon. Horn© Minister please.

[The Deputy Chairman in the Chair]

THE MINISTER OF HOME AFFAIRS (SHRl MUFTI MOHAMMAD SAYEED): Madam Deputy Chairman, Mr. Swamy has said about the seriousness cf the present Government to investigate the various cases. In particular, he mentioned about Bofors. It is quite clear. The case was registered on 22nd January, 1990, and, on 26th January, 1990, six accounts in Swiss banks were frozen.. I must point out that it was only the fifth instance when Swiss bank accounts have been frozen. Secondly, as far as....

SHRl SUBRAMANIAN SWAMY: I wanted information about the partial defreszing of the Swiss bank accounts.

SHRI MUFTI MOHAMMAD SAYEED; I do not have this information.

THE DEPUTY CHAIRMAN; The summer will defreeze.

SHRI MUFTI MOHAMMAD SAYEED: As far as the HDW case is concerned, the F. I. R. was registered on 5-3-90. A. letter of request was sent to the Swiss Government. Already, there is a reciprocal arrangement with them.. Another letter of request has been sejnt to the Swiss Government which will help us in investigating the HDW and the Bofors deals. *(Interruptions).*

Mr. Swamy also pointed out that any police uiiicer, any S. H. O. or any other officer can send a letter of request in regard to investigation and that it may cause harassment. Madam in this con- j nection, I would like to invite your attention to sub-section (3). Any letter of request... *(Interruptions)*

THE DEPUTY CHAIRMAN: Order please. *(Interruptions)*

SHRI MUFTI MOHAMMAD SAYE-ED; Any letter of request contains the clear description of every document and the placs; from where, or, the person from whom, it can be procusrred. It contains the inames of the witnesses who are required to be examined. It contains the interrogatories, questions, to be asked fn'im individual witnesses. It contains ref- jrence to the documents which are to bs: put to the individual witnesses. It contains the name and address of each witness. It contains the place or the source from where the documents can be collected. Any letter of request has to be signed by the investigating officer, or. to *be* sent under corders cf the court. Under sub-section (3), the letter of re-, quest shall be transmitted in such man- | ner as the Central Government may specify in this behalf.

Madam, I would like to point out here that the previous Government itself had prepared the Bill on 12th May, 1989, it was....

LEADER OF OPPOSITION (SHRI p. SHIV SHANKER): Would you pardon me? The previous Government had prepared the Bill but that clause 166A (1) was not there. You may kindly consider that when a lettelr of request is passed on to the Central Government, it is only doing the transmitting job, it is not exercising any other power.

SHRI MUFTI MOHAMMAD SAYE-ED; It is not as if any SHO from Hyderabad will sent a letter of request. It is said thai the lettelr or request shall be transmitted in such manner as the Central Government may specify in this behalf.

SHRI P. SHIV SHANKER; Only transmission and nothing more.

SHRI MUFTI MOHAMMAD SA-YEED; Any request from any person in foreign country, it will be transmitted through the Central agency.

SHRi SUBRAMANIAN SWAMY: Can the Central Government stop the transmission, supposing an SHO wants it?

SHRI MUFTI MOHAMMAD SAYE-ED-. It will be routed through the Central Government. So, even the previous Government had prepared the same Billon 12th May, 1989, but I do not know for what considerations it was not brought before the Lok Sabha, why it was not considered. You had not given investigating powers to officers. You had given powers to courts, but we say that it was arbitrary. For instance, a police officer investigating in this country has the- power of arrest, has the power of investigation; why do you deprive him—why such a discrimination—of exercising his powers the Ire? If it is not arbitray in this country, how is it arbitrary in the other country?

SHRI P. SHIV SHANKER; Mr. Minister do you think that a sub-inspector who is an investigating officer should directly deal with the foreign country? It amounts to that and these powers are liable to be highly misused. They are highly arbitrary.

SHRI MUFTI MOHAMMAD E-*EI>:* In this country as far as your own people a»re concerned, citizens of India are concerned, you give him powers and as far as outside is concerned you deprive him. Is it not discriminatory?

SHRI HANSRAJ BHAROWAJ (Ma-dhya Prcdesh): You referred to 1989. Hon. Minister may consider dispassionately whethere he is prepared to concede this proposition that you police alone will go and investigate. You are rather withdrawing powers from your tely whether he is prepared to concede That is our objection. You will send a request to a foreign country and they will interact....

SHRI MUFTI MOHAMMAD SAYE-ED: There is a reciprocal agreement.

SHRI HANSRAJ BHARDWAJ: So far as the memorandum of understanding is concerned, that is specific in the treaty. If you kindly read it, the court in India and judicial proceedings are defined in the treaty. They have said; The court on this side and the court on the other side. What is the difficulty with this Government that they are removing court from the scelne? Do you want to do everything surreptitiously through the mechanism of the police?

!

SHRI MAD AN RHATIA (Nominated); The hon. Minister has yielded.

This Bill contains two parallel procedures and it is open to the investigating officer at his sweet wil to follow one procedure or the other procedure. It is open to him to send the letter of request on his own. It is open to him to approach the court and have the letter of request through the court. No guidelines have been laid down in this Bill as to in which circumstances and in which oases he will follow one procedure or the other more stringent procedure which is under the control of the judiciary. By this alone this whole Bill is totally violative of article 14 of the Constitution. It is an established law that if two procedures are provided in a particular law, one more stringent than the other, and if it is left to the sweet will of the authority concerned to follow either one or the other procedure which is arbitrary, it is discriminatory and violative of article 14 of the Constitution.

Secondly, Article 20 says that no Person shall be compelled to become a witness against himself. Now Section 161 of Cr. P. C. gives this safeguard to, a person who is sought to be examined by thg investigating officer. It says that the investigating officer shall mot compel any person to reply to any question which is likely to incriminate him. Where is this safeguard so far as a person to be exa mimed abroad on the basis of a letter of request is concerned, if he is subjected to examination by an externa) agency? This is totally violative of Article 20 of the Constitution.

Thirdly, I respectfully submit that this Bill does not provide any particular procedure which has to be followed by the foreign investigating agency at all. Article 21 says, no person cam be deprived of his liberty except in accordance with procedure established by law. This Bill only says that the investigations can be carried out and the evidence could be recorded *by* an outside agency. What is the procedure which is to be followed by the external agency in recording the evidence or carrying out the investigation? There is mo provision whatsoever in this Bill as to the procedure which is to be followed by the external agency. This Bill is, therefore, violative of Article 21 of the Constitution also.

Fourthly, I respectfully submit, it is the sovereign power of every State to investigate an offence through an authority which is under its control and supervision... *(Interruptions)*

THE DEPUTY CHAIRMAN: Mr. Bhattacharjee, take your seat. The Member has a right to express his opinion. I cannot suppress his opinion. It is a serious Bill. Let him say what he wants to say.

SHRI MADAN BHATIA; In 1861, the Indian Police Act was enacted which is still on the Statute Book. This Act was enacted to constitute the police force for the purpose of detection and prevention of crimes. Section 3 thereof provides that the police force shall act under the superintendence of the State. And the word "superintendence" has been interpreted by the Supreme Court in 1980 as giving power of supervision, power of direction over the investigating officer. Here when the letter of request is issued by the Sub-Inspctor of police to a foreign country, the foreign country's agency is completely at its own liberty and not under the control and supervision of the Indian mation state as to the manner in which investigation is to be carried out. I respectfully submit, therefore, that this Bill is not only contrary to the provisions of the Indian Police Act but it is an outrageous assault on the sovereignty of India, because it is a total abdication of the authority

of the State to carry out the investigation through an external agency which is neither under the control, nor under the supervision, nor under the superintendence of the Indian State.

My next point is, let the Home Minister mention a single country in the world in which a letter of request issued by an investigating authority can ever be implemented. Let him mention a stogie country, the law of which permits the implementation of a letter of request issued even by a court during the course of investigation. Let him read the 1975 Act of England which provides that the letters of request will be honoured only if they are issued by the court in the course of the proceedings which have already been instituted in the court. This is the law in England, this is the law in the United States and this is fhe law in all the Commonwealth countries. These letters of request which the hon. Minister through this Bill wants to have the power to be issued at the instarca of the investigating officers, even through the intervention of the court, are nothing but scraps of paper which will be thrown into the waste paper basket by the foreign countries. They are exposing the Parliament of India, by bringing this Bill, to utter ridicule in the international comity of nations. They are totally ignorant of the international law governing the letters of request which axe a part of the international law relating to the comity of nations. Thi$_s$ is colossal ignorance which they are inflicting upon the country and upon th$_e$ Parliament. They can expose themselves as the Government to redicu1e but let them not expose this august body, the highest forum of parliament of this country to utter edicule and shame before other countries. They will simply laugh at you if you make this a law, and when you send n letter of request they will tear it and put it in the wastepaper basket. Thank you. Madam.

(Interruptions).,.

SHRIMATI MARGARET ALVA (Karnataka): You are afraid of facing the truth. You transfer a Judge because ... *(Interruptions)*.. And you talk of the rule of law... *(Interruptions)*

श्री मुफ्ती मोहम्मद सईद : मैडम, मैं यह कहना चाहता हूं ...(व्यवधान)... मैं यह कहना चाहता हूं कि यह सरकार, जैसे बोफार्स के मामले में कह दिया कि जो लोग इसमें इन्वाल्व हैं, देश के लोग जिन्होंने देश की दौलत को बाहर के बैंकों में रखा, हम उस वक्त भी यह कहते आये हैं कि ....

श्री सीताराम केसरी :(बिहार) आप बोल रहे हैं ...(व्यवधान) ये आप बोल रहे हैं ? ...(व्यवधान)...

श्री मुफ्ती मोहम्मद सईद : आप मुझे सुनिये ...(व्यवधान) ...मेरी बात सुनिये ।

श्री सीताराम केसरी : ये बोल रहे हैं?

श्री मुफ्ती मोहम्मद सईद : मेरा यह कहना है, मैं यही कह रहा था, मैं किसी को नहीं कहना चाहता । सारी पब्लिक के लोग, देश की जनता, यह कहती थी उन लोगों के खिलाफ...(व्यवधान) जिन्होंने देश का धन विदेश में रखा, उनके खिलाफ कोई कार्रवाई क्यों नहीं की जाती । इस सरकार ने 22 जनवरी को उनके खिलाफ दिल्ली की अदालत में केस दायर करके यह मुमकिन बनाया और 26 जनवरी को 6 खाते ...(व्यवधान)

SHRI VISHVJIT P. SINGH (Maharashtra): The honourable Minister is giving a political speech... *(Interruptions)*

SHRI MUFTI MOHAMMAD SAYEED: No, I am giving you facts. *(Interruptions)...*

SHRI VISHVJIT P. SINGH: He is giving a political speech.

श्री मुफ्ती मोहम्मद सईद : मेरा यह कहना है कि 26 जनवरी को वे 6 एकाउंट जो थे, वे फ्रीज हो गये । स्विटजरलैंड सरकार को एक मेमोरेंडम आफ अंडर-स्टेंडिंग के तहत हमारी तरफ से उनको

[श्री मुफ्ती मोहम्मद सईद]

लेटर आफ रैक्वेस्ट चला गया था जिससे इन्वेस्टीगेशन का जो काम है वह आसान हो गया । दूसरा लेटर इस आर्डिनेंस के तहत हमने स्वीडिश गवर्नमेंट को भेजा, लेटर आफ रेक्वैस्ट... (व्यवधान).... मेरा यह कहना है कि अगर ...(व्यवधान) ...अगर इस तरमीम ... (व्यवधान)...

SHRI K. G. MAHESWARAPPA (Karnataka): Is nobody going to control them?

(Interruptions)

SHRI DIPEN GHOSH: Madam, what is happening? Everything was settled— that due to the time constraint there will be no speeches, the Minister will repiy and there will be voting. We did not speak only because of the fact that there was the time constraint. Otherwise we could speak... *(Interruptions)*... Let him reply and then let tthere be voting. You have your amendments also. . *(Interruptions)*...

श्री मुफ्ती मोहम्मद सईद: इसमें यही है अगर हम इनवैस्टीगेटिंग आफिसर को यहां, देश में अथारिटी अख्तियार देते हैं ...(व्यवधान)...

डा० रत्नाकर पाण्डेय: जो कांस्टीट्यूशनल प्वाइंट उठाये गये हैं, सरकार पहले उनका जवाब दे । (व्यवधान) उसके बाद माननीय मंत्री जी (व्यवधान) सभापति महोदया, मैं आपसे प्रार्थना करूंगा कि रक्षा करें सदन के (व्यवधान) भाटिया जी ने जो प्वाइंट उठाये हैं उनका पहले जवाब दें (व्यवधान)

श्री मुफ्ती मोहम्मद सईद : इसमें मेरा कहना यह है कि यह कानून (व्यवधान) यह कानून पास करने से चाहे बोफोर्स का स्कैंडल हो, चाहे एअर-बस का स्कैंडल हो, उसके इनवेस्टीगेशन में आसानी होगी और जो सही क्लप्रिट होंगे मालूम हो जाएंगे (व्यवधान) अगर इस कानून के पास करने में कोई रुकावट डाली जाएगी तो उसका यह मतलब होगा कि यह लोग नहीं चाहते हैं (व्यवधान) कलप्रिट कौन आदमी है (व्यवधान) इसलिए रुकावट डाल रहे हैं (व्यवधान)

SHRI P. SHIV SHANKER: Mr. Minister just one minute.

श्री मुफ्ती मोहम्मद सईद: एक मिनट मुझे कहने दीजिये। (व्यवधान)

I mean to say that if the purpose of ihi's Bill is hampered, it will rather hamper the investigation.

(Interruptions)

SHRi P. SHIV SHANKER: What is this, Mr. Home Minister? *(Interruptions)*

THE DEPUTY CHAIRMAN: The Leader of the Opposition wants tosay something. Please take your seat. Let Mr. Shiv Shanker 'spe?. k.

SHRI P. SHIV SHANKER: Madam, I strongly object to the misleading by the Home Minister.

SHRI K. G. MAHESWARAPPA; No misleading. *(Interruptions)*

SHRI P. SHIV SHANKER: Listen to me. I am on my legs *(Interruptions)*

THE DEPUTY CHAIRMAN: The Home Minister is capable of protecting himself. The Home Minister can protect the whole country. Don't bother he will protect you also. *(Interruptions)*

SHRI P. SHIV SHANKER: I am saying this with responsibility. I am prepared to prove every word of what I am s-ying. but I would not go into arguments at this stage. We are equally in. terssted that those who are involved in Bofors or other deal's must be exposed. *(Interruptions)* Will you kindly sit down?

SHRI K. G. MAHESWARAPPA You are not interested. You are exposed. That is why you want to block it. *(Interruptions)*

SHRI P. SHIV SHANKER; I would only appeal to my friend on the other side that he need not get excited. I am not saying anything for which he should get excited. *(Interruptions)* Please control yourself.

A'. s I said, we are ourselves interested that truth must be unearthed.

I would like to tell you one more thing. We sitting here today are not on the technicalities of the matter. I agree with what Mr. Bhatia says. But on that ground we are not opposing the Bill here. We are not opposing the Bill at all. We certainly oppose new section 166A through which you want to clothe the investigation officer with the power to issue a letter of request and make the Centnal Government only a post office for the purpose of determining the manner of transmission. We cannot give this pow™. r to a Sub-Inspector or a Station House Officer. We are very clear on this point. Therefore, what you have done we are not questioning. In fact, I must thrnk you, for you yourself said that even section 166A(2) was passed by our Cabinet,

SHRI MUFTI MOHAMMAD SA-YEED: But it was not introduced in Parliament.

SHRI P. SHIV SHANKER: I am saying that the Cabinet had passed it. I am myself saying this. We had ourselves passed it in the Cabinet.

SHRI MUFTI MOHAMMAD SA-YEED: But you had not introduced it here.

SHRI P. SHIV SHANKER; That is all right. Therefore, please don't talk in terms that if this Bill is not passed etc. It will bs passed with our opposition on Section 116A. It is for the court to decide fh; vires of it. We have nothing to say on that.

SHRI N. K. P. SALVE (Maharashtra); It has to be made clear that in principle it has brsn acceptable to us. We want ' to expedite it and we want to hold investigations. Mr. Bhatia has raised extremely cogent and important constitutional points, which the Home Minister is unable to deal with. I dont know whether law is his background or not. Unfortunately they do not seem to be having a good legal adviser. I asked the Home Minister in all humility if he has shown this Bill to the Attorney General. Does he have his concurrence? You make a statement on the floor of the House that you have shown it to the Attorney General.

SHRI MUFTI MOHAMMAD SA-YEED: Yes, the Attorney General has been consulted.

SHRI N. K. P. SALVE: And according to him it is constitutional?

SHRI MUFTI MOHAMMAD' SA-YEED: Yes.

SHRI MURLIDHAR CHANDRA-KANT BHANQARE (Maharashtra): Madam, I am on a point of order. Filibustering is one thing and replying is mother. A very serious constitutional objection has been taken to the validity of this Bill. I think even now it is not lat; to refer this Bill for opinion of the Supreme Court under Article 143. Ws will have its opinion by 30th of April and then we can pass that.

SHRI P. SHIV SHANKER; No. We can do it now.

THE DEPUTY CHAIRMAN; Mr. Minister, is your speech over?

SHRI MUFTI MOHAMMAD SA-YERD: Yes.

SHRI SHABBIR AHMAD SALARIA (Jammu and Kashmir) ■ Madam, in order to explain certain legal complications which hve ri'sen while the matter was being debated, I want to make a Submission

SHRI SHABBIR AHMAD SALARIA; I have given my name on this.

उपसभापति : आप जब अमेंडमेंट आयेगा तब बोलियेगा । अभी नहीं ।

THE DEPUTY CHAIRMAN; Mr. Salaria, it is not proper at this stags. It will be absolutely in order if I permit you to speak when your amendment comes for voting and after the Minister has replied. Now, I cannot allow you to speak. Whatever you want to say you can say at that time.

SHRI SHABBIR AHMAD SALARIA: I am not submitting on the amendment.

THE DEPUTY CHAIRMAN: No. I shall first put the Resolution moved by Shri Subramanian Swamy to vote.

The question is:

That this House disapproves of the Code of Criminal Procedure (Amendment) Ordinance, 1990 (No. 1 of 1990), promulgated by the President on the 19th February, 1990.

The motion was negatived,

THE DEPUTY CHAIRMAN; I shall now put the amendment moved by Shri A. G. Kulkarni for reference of the Bill to a Select Committee of the Rajya Sabha to vote.

Thz amendment mas *negatived.*

THE DEPUTY CHAIRMAN; Now, I shall put the motion moved by Shri Mufti Mohammad Sayeed to vote.

The question is;

That the Bill, further to amend the Code of Criminal Procedure, 1973, as passed by the Lok Sabha, be taken into consideration.

The motion was adopted,

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clause 2-(lnsertion of new sections 166/1 *and* 166B)

THE DEPUTY CHAIRMAN: There are nine amendments

SHRI SHABBIR AHMAD SALARIA; Madam, I move;

1. That at page 1, line 16, *after* the words "examine orally" the words "or by interrogatories" be *inserted*

2. That at page 2, line 14, *after* the words "Criminal Court' the words "having jurisdiction to try the offence under investigation" be *inserted.*

SHRI A. G. KULKARNI: Madam, I move:

3. That at page 2, *after* line 25, the following be *inserted,* namely: —

"(3A) There shall be laid before each House of Parliament a statement of letters of request issued by the investigating officer under this Act. "

SHRIMATI JAYANTHI NATARAJAN; Madam, I move;

4. That at pages 1 and 2, lines 10 to 18 and 1 to 9 respectively be *deleted.*

5. That at page 2 line 10 *for* the words, brackets and figures "(2) Notwithstanding contained in sub-section (1)" the words, brackets and figures "166A. (1) Notwithstanding anything contained in this Code" be *substituted.*

6. That at page 2, line 24 *for* the (brackets and figure "(3)" the brackets and figure "(2)" be *substituted.*

7. That at page 2, —

(i) line 26 *for* the brackets and figure "(4)" the brackets and figure '(3)" be *substituted,*

(ii) line 27 the words, brackets and figure "or sub-section (2)" be *deleted.*

9. That at page 2, line 22-23, *for* the words "in such manner as the Central Government may specify in this behalf" the words "through normal diplomatic channels" be *substituted.*

SHRI V. NARAYANASAMY (Pondi-cherry): Madam, I move:

8. That at page 2, line 14, *after* the words "any Criminal Court may" the

words "with the consent of the Central Government" be *inserted.*

The questions were proposed,

THE DEPUTY CHAIRMAN: Mr. Salaria, would you like to speak on it?

SHRI SHABBIR AHMAD SALARIA; Yes.

Madam Deputy Chairperson, this Bill which has been introduced has two parts. 166A deals with the investigating officer. Whenever there is a cognizable offence, an offence in which the police can arrest any person accused of any offence and police can collect the evidence and present a challan in a court of law, it is expected to cover that stage. In that stage the police officer competent to investigate an offence collects evidence and for that purpose 166A gives the police officer certain powers to collect evidence by means of sending a request to any person or authority outside India to make available evidence which may be connected with the commission of an offence. For that purpose he is entitled to issue according to section 166A a request to such an authority outside India in accordance with sub-section (3). The request shall be transmitted in such? manner as the Central Government may specify in this behalf. Now, the officer who collects the evidence, that evidence becomes part of the challan and that evidence is ultimately produced in a court of law. Suppose vital evidence is available outside India with an authority or with any person or with any Government and that evidence cannot be collected by an. investigating officer and, therefore, this is not part of the evidence which the investigating officer will take to the court for taking cognizance of the offence. There are two stage. There is a stage in which a police officer collects evidence and he can very well collect evidence within India. There is no difficulty. The Code of Criminal Procedure gives him that power but the difficulty arises when in a particular case, the evidence is in a place which is outside India or the person who is to be examined is not living in India but he is living in a foreign country. The Code of Criminal Procedure does not cover that situation. Therefore, at present section 166A has been provided so as to enable an investigating officer to request any authority outside India or any per son outside India to give evidence and that evidence may be transmitted to that officer through the aegis of the Central Government. If this power is not available to an investigating officer, what will happen? He will present a challan minus that offence. When that challan goes to a court of law that evidence being not there, the court of law can very well say "I refu'se to take cognizance. I find that there is no prima facie case. I find there is no sufficient evidence to issue process against the person or to charge the person who has been charged with an offence evidence regarding which is outside India. " Therefore, it appears 166A has been provided in this Bill for the purpose of enabling a police officer who is an investigating officer under the Criminal Procedure Code to send a letter of request in the manner provided by the Central Government to a Government outside India or to a person outside India to be examined by that Government or by that authority which is outside India and transmit that evidence to India to that officer who is investigating that through the aegis of the Central Government so that that evidence—what I feel is th; purpose behind this—can be presented before the court, "here is this evidence; this has come from outside India. " Once that evidence comes, then, the court can take cognizance...

SHRI SHABBIR AHMAD SALARIA; I am coming to the amendment. I am coming to the amendment. Madam, I am at the service of

उपसभापति : आप जरा संक्षेप में बोलिये ।

the House. I am trying to explain the position because some confusion has arisen. Some misunderstanding has arisen. Now, the second stage is when the court finds that a case has been presented but during the course of hearing of the case, the court comes to the conclusion that there is certain evidence outside India and the court is therefore given power to write to the authority

[Shri Shabir Ahmad Salaria.)

outside India to transmit that evidence to India so that it can be used by the... *(Interruptions)...*

उपसभापति : सलारिया साहब अब मुख्तसर हो गया।

SHRl SHABBIR AHMAD SALARIA: I am coming to the amendment. Unless we understand the context, we cannot understand the amendments. I am submitting something which I would not submit in the court of law. We cannot understand the amendments. *{Interruption)*

उपसभापति : आप अपने एमेंडमेंट्स प्रेस कर रहे हैं या नहीं ?

SHRI SHABBIR AHMAD SALARIA: I am pressing the amendment. Let the House appreciate what I am submitting. Now, for instance 166A, sub-section 1, clause 1 in which it is said that during the course of investigation... *(Interruptions)* ... Let the House appreciate what I am submitting. If in the course of investigation... *(Interruption)*

THE DEPUTY CHAIRMAN: Mr. Salaria, I think, you spoke enough and I am sure, everybody appreciated and understood it. *(Interruption)*

SHRI SHABBIR AHMAD SALARIA; Now, I am submitting the amendment. If in the course of investigation into an offence, the investigating officer or an officer superior in rank to the investigating officer has reason to believe that evidence may be available in a country or a place outside India, he may issue a letter of request *to* the authority appointed to investigate such offence in that countiy or place: to examine orally—I have said, after the words "orally"', the words "or by interrogatories" may be insetted. Why *I* have said this? It is because the authority outside India which has to examine may find that the person who has to be examined is living far away from the seat of that authority. *In that case,* a fetter can be sent, interrogatory can be sent. Now certainly.. . *(Interruptions)* ...

THE DEPUTY CHAIRMAN; Mr. Salaria, as I repeated before and I am repeating again

दिया है । सब ने उस को सुना है और एप्रेसिएट किया है । होम मिनिस्टर स हब ने भी किया है । आप कृपया मुझे यह बात बता दें कि आ.प का जो क्लाज-1 और 2 है, आप अपने एमेंडमेंटस प्रेस कर रहे हैं या नहीं ?

SHRl SHABBIR AHMAD SALARIA: I am pressing my amendments,

THF, DEPUTY CHAIRMAN: Are you prying?

Now, I am putting your amendments to vote.

Amendment nos, 1 *and 2 years nega. lived.*

THE DEPUTY CHAIRMAN: Now I am putting the amendment of Shri A. G. Kulkarni to vote.

Amendment No, 3 *was negatived,*

THE DEPUTY CHAIRMAN; Amendments 4, 5, 6, and 7 by Shrimati Jayanthi Natarajan,

SHRIMATI JAYANTHI NATARAJAN: Madam, I am pressing amendment 4. 5, 6, and 7. I had already spoken on them. I will not speak again.

THE DEPUTY CHAIRMAN: The •question is:

(No. 4)

Th;it at pages 1 and 2, lines 10 to 18 and 1 to 9 respectively be *deleted.*

(No. 5)

Th .t at pagj 2 line 10 *for* the words, brackets and figures "(2)" Notwithstanding anything contained in Sub-ssction (1)" the words. brackets and figures "lrt(SA. (1) Notwithstanding anything - ontained in this Code" be *substituted.*

(No. 6)

That at page 2, line 24 *for* the brackets and figure "(3)" the brackets and figure "(2)" be *substituted*_

(No. 7)

That at page 2, —

(i) line 26 /or the bracket's and figure "(4)" the brackets aad figure "(3)" be *substituted.*

(ii) line 27 the words, brackets and figure "or sub-section (2)" be *deleted.*

The motion was adopted.

THE DEPUTY CHAIRMAN: Mr. V. Narayanasamy, are you withdrawing your amendment no. 8?

SHRI V. NARAYANASAMY; Madam, I withdraw amendment No. 8.

The amendment (No. 8) *was, by leave withdrawn.*

THE DEPUTY CHAIRMAN; Now, Amendment No. 9. Shrimati Jayanthi Natarajan.

SHRIMATI JAYANTHI NATARAJAN: I am withdrawing it.

Amendment No, 9 was, by leave, withdrawn.

THE DEPUTY CHAIRMAN: I shall
* now put clause 2, as amended, to vote.

The question is:

That clause 2, as amended, stand part of the Bill.

Th& motion was- adopted

Clause 2, *as amended, was added to the Bill*

Clause 3 *was added to the Bill.*

Clause 1, *the Enacting Formula and the Title were added to the Bill.*

SHRI MUFTI MOHAMMAD SA-YEED: Madam, I move:

That the Bill, as amended, be passed.

The question- wag put and the motior j *was adopted.*

THE DEPUTY CHAIRMAN: Now, before we adjourn the House and go for our cultural programme ... (*Interruptions*). आप जरा पेशेन्स से काम लिया कीजिए और सब्र का इस्तेमाल करिए, मैं वही बोलने जा रहा हूं कि इससे पहले कि हम एडजोर्न करके कल्चरल प्रोग्राम और खाने के लिए यहां से जायं, गुजराल साहब एक स्टेटमेंट करने वाले हैं नेपाल के बारे में ।

श्री सुब्रह्मण्यम स्वामी : मैडम, स्टेटमेंट की कापी नहीं मिली ।

उपसभापति : आ रही है ।

श्री सुब्रह्मण्यम स्वामी : कहां से आ रही है । नेपाल से आ रही है ... (व्यवधान)

STATEMENT BY MINIS rER

Relations with Nepal

THE MINISTER OF EXTERNAL AFFAIRS (SHRI I. ' K. GUJRAL): Madam, India and Nepal, whose people are bound by bonds of history, geography, culture, ties of-blood and marriage, have had a uniquely close relationship. They share a 1700 kms of open border which is open and is a symbol of this relationship.

In recent times, this relationship has seen some strains. This Government attaches high • priority to improving relations with all our neighbours, specially Nepal. We took very early initiatives to this end. - At our invitation, His Excellency S. K. Upadhyay, Minister of Foreign Affairs of Nepal, visited India from January 3 to 5, 1990 for discussions with PM and with me. His visit contrt-bute'd to a better understanding of each other's interest and concerns.